

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION  
FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF T. H. McELVAIN OIL & GAS  
LIMITED PARTNERSHIP FOR  
COMPULSORY POOLING,  
SAN JUAN COUNTY, NEW MEXICO

CASE NO. 1415

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FIRST AMENDED PRE-HEARING STATEMENT

This pre-hearing statement is submitted by ConocoPhillips Company ("ConocoPhillips") as required by the New Mexico Oil Conservation Division.

APPEARANCES OF THE PARTIES

APPLICANT

T. H. McElvain Oil & Gas

ATTORNEY

James Bruce, Esq.

OPPONENT

ConocoPhillips Company  
P. O. Box 4289  
Famington, New Mexico 87499-4289  
Attn: Alan Alexander  
505-326-9757

ATTORNEY

W. Thomas Kellahin  
706 Gonzales Road  
Santa Fe, New Mexico 87501  
505-982-4285  
Fax: 505-982-2047

**STATEMENT OF THE CASE**

**OPPONENT**

ConocoPhillips is the working interest owner of approximately 73% of the N/2 of Section 1, T29N, R13W, NMPM being the Basin-Fruitland Coal-Gas Pool spacing unit that McElvain is seeking to compulsory pool for the Hutchinson Well No. 2 located in Unit F.

In order to obtain a compulsory pooling order, McElvain must first determine the mineral and working interest ownership within a spacing unit and provide those parties with a reasonable opportunity to voluntarily participate. In this case, McElvain incurred some \$85,000 costs for abstract and title opinion costs. As part of its proposed cost of drilling, completing and equipping the Hutchinson Well No. 2, McElvain in its "AFE" claims that it can recover these abstract/title costs from ConocoPhillips.

But for this claim, ConocoPhillips would have been able to reach a voluntary agreement with McElvain for the drilling of this wellbore.

The issues for the Examiner:

- (a) Can McElvain properly include abstract and title opinion costs in a compulsory pooling order and recovery those costs from the pooled parties by including them in its AFE of estimated costs of drilling, completing and equipping the subject well; and
- (b) Must ConocoPhillips pay its proportionate share of those costs or, if not, it will be a non-consenting pooled party.

ConocoPhillips requests that the Division deny McElvain's attempt to recovery McElvain's abstract/title costs from ConocoPhillips.

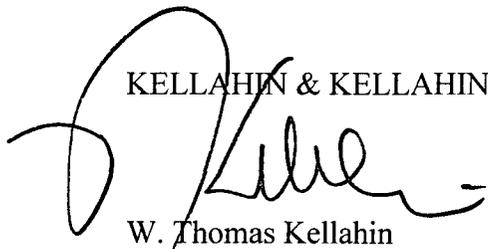
**PROPOSED EVIDENCE**

**OPPONENT**

<b>WITNESSES</b>	<b>EST. TIME</b>	<b>EST. EXHIBITS</b>
Richard Corcoran (Landman)	@ 30-min.	@ 6-8 exhibits
J. Robert Helton, Jr. (Landman)	@ 20-min	@ 2-3 exhibits

**PROCEDURAL MATTERS**

None at this time.

  
KELLAHIN & KELLAHIN  
W. Thomas Kellahin  
706 Gonzales Rd  
Santa Fe, New Mexico 87501  
Phone 505-982-4285  
Fax 505-982-2047  
E-mail: [tkellahin@comcast.net](mailto:tkellahin@comcast.net)

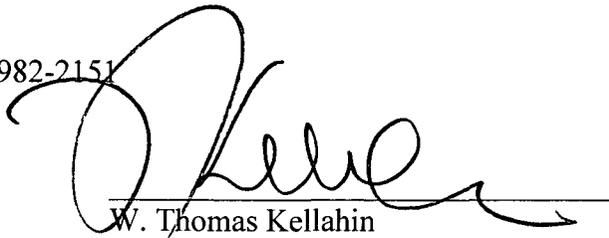
**CERTIFICATE OF SERVICE**

I certify that on April 28, 2008, I served a copy of the foregoing documents by:

- US Mail, postage prepaid
- Hand Delivery
- Facsimile

to the following:

James Bruce, Esq. Fax: 505-982-2151

  
W. Thomas Kellahin